

## §211.3

## 31 CFR Ch. II (7–1–13 Edition)

### §211.3 Exceptions.

The regulations of this part do not apply to payments to foreign governments, nor to checks or warrants issued in payment of salaries or wages, or for goods or services purchased by the Government of the United States in foreign countries, unless such payments are subject to the Foreign Funds Control Regulations (31 CFR part 520), the Foreign Assets Control Regulations (31 CFR part 500), the Cuban Assets Control Regulations (31 CFR part 515), or the Iranian Assets Control Regulations (31 CFR part 535).

[45 FR 47678, July 16, 1980]

### §211.4 Implementing instructions.

Implementing instructions will be issued in Part IV, “Disbursing,” of the Treasury Fiscal Requirements Manual for Guidance of Departments and Agencies.

[41 FR 15847, Apr. 15, 1976]

## PART 212—GARNISHMENT OF ACCOUNTS CONTAINING FEDERAL BENEFIT PAYMENTS

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AUTHORITY: 5 U.S.C. 8346; 5 U.S.C. 8470; 5 U.S.C. 1103; 31 U.S.C. 321; 31 U.S.C. 3321; 31 U.S.C. 3332; 38 U.S.C. 5301(a); 38 U.S.C. 501(a); 42 U.S.C. 405(a); 42 U.S.C. 407; 42 U.S.C. 659; 42 U.S.C. 1383(d)(1); 45 U.S.C. 231f(b); 45 U.S.C. 231m; 45 U.S.C. 352(e); 45 U.S.C. 362(1).

SOURCE: 76 FR 9955, Feb. 23, 2011, unless otherwise noted.

### §212.1 Purpose.

The purpose of this part is to implement statutory provisions that protect Federal benefits from garnishment by establishing procedures that a financial institution must follow when served a garnishment order against an account holder into whose account a Federal benefit payment has been directly deposited.

### §212.2 Scope.

This part applies to:

(a) *Entities*. All financial institutions, as defined in §212.3.

(b) *Funds*. Federal benefit payments protected from garnishment pursuant to the following authorities:

(1) SSA benefit payments protected under 42 U.S.C. 407 and 42 U.S.C. 1383(d)(1);

(2) VA benefit payments protected under 38 U.S.C. 5301(a);

(3) RRB benefit payments protected under 45 U.S.C. 231m(a) and 45 U.S.C. 352(e); and

(4) OPM benefit payments protected under 5 U.S.C. 8346 and 5 U.S.C. 8470.

### §212.3 Definitions.

For the purposes of this part, the following definitions apply.

*Account* means an account, including a master account or sub account, at a financial institution and to which an electronic payment may be directly routed.

*Account holder* means a natural person against whom a garnishment order is issued and whose name appears in a financial institution’s records as the direct or beneficial owner of an account.

*Account review* means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period.

*Benefit agency* means the Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Office of Personnel Management (OPM), or the Railroad Retirement Board (RRB).

*Benefit payment* means a Federal benefit payment referred to in §212.2(b) paid by direct deposit to an account with the character “XX” encoded in positions 54 and 55 of the Company

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Entry Description field and the number “2” encoded in the Originator Status Code field of the Batch Header Record of the direct deposit entry.

*Federal banking agency* means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration.

*Financial institution* means a bank, savings association, credit union, or other entity chartered under Federal or State law to engage in the business of banking.

*Freeze or account freeze* means an action by a financial institution to seize, withhold, or preserve funds, or to otherwise prevent an account holder from drawing on or transacting against funds in an account, in response to a garnishment order.

*Garnish or garnishment* means execution, levy, attachment, garnishment, or other legal process.

*Garnishment fee* means any service or legal processing fee, charged by a financial institution to an account holder, for processing a garnishment order or any associated withholding or release of funds.

*Garnishment order or order* means a writ, order, notice, summons, judgment, levy or similar written instruction issued by a court, a State or State agency, a municipality or municipal corporation, or a State child support enforcement agency, including a lien arising by operation of law for overdue child support or an order to freeze the assets in an account, to effect a garnishment against a debtor.

*Lookback period* means the two month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier, or on the last date of the month two months earlier if the corresponding date does not exist. Examples illustrating the application of this definition are included in appendix C to this part.

*Protected amount* means the lesser of the sum of all benefit payments posted to an account between the close of business on the beginning date of the lookback period and the open of business on the ending date of the lookback

period, or the balance in an account when the account review is performed. Examples illustrating the application of this definition are included in Appendix C to this part.

*State* means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, or the United States Virgin Islands.

*State child support enforcement agency* means the single and separate organizational unit in a State that has the responsibility for administering or supervising the State’s plan for child and spousal support pursuant to Title IV, Part D, of the Social Security Act, 42 U.S.C. 654.

*United States* means:

- (1) A Federal corporation,
- (2) An agency, department, commission, board, or other entity of the United States, or
- (3) An instrumentality of the United States, as set forth in 28 U.S.C. 3002(15).

[76 FR 9955, Feb. 23, 2011, as amended at 78 FR 32109, May 29, 2013]

### §212.4 Initial action upon receipt of a garnishment order.

(a) *Examination of order for Notice of Right to Garnish Federal Benefits.* Prior to taking any other action related to a garnishment order issued against a debtor, and no later than two business days following receipt of the order, a financial institution shall examine the order to determine if the United States or a State child support enforcement agency has attached or included a Notice of Right to Garnish Federal Benefits, as set forth in Appendix B to this part.

(b) *Notice of Right to Garnish Federal Benefits is attached to or included with the order.* If a Notice of Right to Garnish Federal Benefits is attached to or included with the garnishment order, then the financial institution shall follow its otherwise customary procedures for handling the order and shall not follow the procedures in §212.5 and §212.6.

(c) *No Notice of Right to Garnish Federal Benefits.* If a Notice of Right to